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**DEPARTMENT OF JUSTICE**

**Bureau of Alcohol, Tobacco, Firearms, and Explosives**

**27 CFR Part 478**

**[Docket No. ATF 2019R-03; AG Order No. 4576-2019]**

**Removal of Expired Regulations Concerning Commerce in Firearms and  
Ammunition; Correction**

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** On April 1, 2019, the Department of Justice published in the Federal Register a final rule making technical changes to remove expired, obsolete, or unnecessary regulations; correct specific headings; and reflect changes to nomenclature in the Bureau of Alcohol, Tobacco, Firearms, and Explosives regulations related to the commerce in firearms and ammunition. That document inadvertently included an incomplete revision to remove all words related to an expired regulation. This final rule corrects the April 2019 amendment by revising the section to complete the removal of the expired regulation.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Shermaine Kenner, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648-7070 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) administers regulations published in title 27, Code of Federal Regulations (CFR), part 478, concerning commerce in firearms and ammunition. On April 1, 2019, the Department of Justice (DOJ) published in the Federal Register a final rule that made technical amendments in ATF regulations in the CFR (84 FR 12093). The technical changes made in this rule included the removal of expired regulations and regulations that are no longer applicable; the correction of section headings for accuracy; and a change in nomenclature resulting from the transfer of ATF to the Department of Justice from the Department of the Treasury pursuant to the Homeland Security Act of 2002.

Several sections were removed or amended because the statute that formed the basis of those regulations is no longer in effect. The Public Safety and Recreational Firearms Act (the Act), enacted as part of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322, Title XI (1994), established a 10-year prohibition on the manufacture, transfer, or possession of “semiautomatic assault weapons,” as defined in the Act, as well as large capacity feeding devices. The Act expired on September 13, 2004, and the final rule was issued to remove or amend the

regulatory provisions that had, in whole or in part, implemented that Act as they are no longer effective.

The April 2019 technical amendments inadvertently failed to remove all words related to the expired regulation that were included in 27 CFR 478.171. This final rule corrects the changes in the CFR made by the 2019 technical amendments by amending § 478.171 to remove “and manufactured after September 13, 1994, ” and “or were” in the last sentence of the paragraph and to add “was” before “exported” in the last sentence of the paragraph.

## **II. Statutory Orders and Executive Review**

### *A. Executive Orders 12866, 13563, and 13771*

This rule has been drafted and reviewed in accordance with Executive Orders 12866, “Regulatory Planning and Review,” section 1(b), The Principle of Regulation; Executive Order 13563, “Improving Regulation and Regulatory Review,” section 1(b), General Principles of Regulation; and Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.”

This rule makes technical corrections to eliminate outdated and incorrect terminology and improve the clarity of the regulations, and makes no substantive changes. The Department has determined that this final rule is not a “significant regulatory action” as defined in Executive Order 12866, section 3(f). Accordingly, this final rule has not been reviewed by the Office of Management and Budget.

Finally, because this rule is not a significant regulatory action, it is not subject to the requirements of Executive Order 13771. There are no costs associated with this regulation; however, it benefits the industry in that it removes outdated regulations and

provides clarity for the regulated industry. Because there are no costs associated with this final rule, there are no monetized benefits. This rule is considered a deregulatory action under Executive Order 13771.

*B. Executive Order 13132*

This final rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, “Federalism,” the Attorney General has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

*C. Executive Order 12988*

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.”

*D. Administrative Procedure Act*

Under the Administrative Procedure Act (“APA”), 5 U.S.C. 553(b)(3)(B), an agency may, for good cause, find the usual requirements of prior notice and comment are impracticable, unnecessary, or contrary to the public interest. Currently, 27 CFR part 478 contains references to expired regulations and has obsolete, outdated, and incorrect terminology that may be confusing to the public. The rule makes technical corrections to improve the clarity and accuracy of the regulations and makes no substantive changes. For these reasons, the agency has determined that publishing a noticed of proposed rulemaking and providing opportunity for public comment is unnecessary.

Further, the APA permits an agency to make this rule effective upon the date of publication because it is not a substantive rule. *See* 5 U.S.C. 553(d). Furthermore, the Department finds that there is good cause for the final rule to take effect upon publication, since the revisions made by this rule are minor, non-substantive, and technical, and there is no reason to delay these changes. *Id.*

*E. Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 603, 604, and 605(b), a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

*F. Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1525.

*G. Paperwork Reduction Act of 1995*

This final rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act 44 U.S.C. 3501-3521.

*H. Congressional Review Act*

Pursuant to the Congressional Review Act, 5 U.S.C. 801 et seq., the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

## **List of Subjects in 27 CFR Part 478**

Administrative practice and procedure, Arms and munitions, Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

## **Authority and Issuance**

Accordingly, for the reasons discussed in the preamble, 27 CFR part 478 is amended as follows:

## **PART 478--COMMERCE IN FIREARMS AND AMMUNITION**

1. The authority citation for 27 CFR part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 921-931; 44 U.S.C. 3504(h).

## **§ 478.171 [Amended]**

2. Amend § 478.171 by removing “and manufactured after September 13, 1994,” and “or were” in the last sentence of the paragraph and adding “was” before “exported” in the last sentence of the paragraph.

Dated: November 1, 2019.

William P. Barr,  
Attorney General.

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